

ten minutes by the examiner. The appellant may reserve part of the time allowed for oral argument to present a rebuttal argument.

(f)(1) If, during an appeal from a refusal of registration, it appears to the Trademark Trial and Appeal Board that an issue not previously raised may render the mark of the appellant unregistrable, the Board may suspend the appeal and remand the application to the examiner for further examination to be completed within thirty days.

(2) If the further examination does not result in an additional ground for refusal of registration, the examiner shall promptly return the application to the Board, for resumption of the appeal, with a written statement that further examination did not result in an additional ground for refusal of registration.

(3) If the further examination does result in an additional ground for refusal of registration, the examiner and appellant shall proceed as provided by §§ 2.61, 2.62, 2.63 and 2.64. If the ground for refusal is made final, the examiner shall return the application to the Board, which shall thereupon issue an order allowing the appellant sixty days from the date of the order to file a supplemental brief limited to the additional ground for the refusal of registration. If the supplemental brief is not filed by the appellant within the time allowed, the appeal may be dismissed.

(4) If the supplemental brief of the appellant is filed, the examiner shall, within sixty days after the supplemental brief of the appellant is sent to the examiner, file with the Board a written brief answering the supplemental brief of appellant and shall mail a copy of the brief to the appellant. The appellant may file a reply brief within twenty days from the date of mailing of the brief of the examiner.

(5) If an oral hearing on the appeal had been requested prior to the remand of the application but not yet held, an oral hearing will be set and heard as provided in paragraph (e) of this section. If an oral hearing had been held prior to the remand or had not been previously requested by the appellant, an oral hearing may be requested by

the appellant by a separate notice filed not later than ten days after the due date for a reply brief on the additional ground for refusal of registration. If the appellant files a request for an oral hearing, one will be set and heard as provided in paragraph (e) of this section.

(6) If, during an appeal from a refusal of registration, it appears to the examiner that an issue not involved in the appeal may render the mark of the appellant unregistrable, the examiner may, by written request, ask the Board to suspend the appeal and to remand the application to the examiner for further examination. If the request is granted, the examiner and appellant shall proceed as provided by §§ 2.61, 2.62, 2.63 and 2.64. After the additional ground for refusal of registration has been withdrawn or made final, the examiner shall return the application to the Board, which shall resume proceedings in the appeal and take further appropriate action with respect thereto.

(g) An application which has been considered and decided on appeal will not be reopened except for the entry of a disclaimer under section 6 of the Act of 1946 or upon order of the Director, but a petition to the Director to reopen an application will be considered only upon a showing of sufficient cause for consideration of any matter not already adjudicated.

[48 FR 23141, May 23, 1983, as amended at 54 FR 34901, Aug. 22, 1989; 68 FR 55768, Sept. 26, 2003; 72 FR 42263, Aug. 1, 2007]

§ 2.144 Reconsideration of decision on *ex parte* appeal.

Any request for rehearing or reconsideration, or modification of the decision, must be filed within one month from the date of the decision. Such time may be extended by the Trademark Trial and Appeal Board upon a showing of sufficient cause.

[54 FR 29554, July 13, 1989]

§ 2.145 Appeal to court and civil action.

(a) *Appeal to U.S. Court of Appeals for the Federal Circuit.* An applicant for registration, or any party to an interference, opposition, or cancellation